

## REMARKS

Applicant has filed Request for Continued Examination (RCE) under 37 CFR §1.114 RCE with proper fees for this amendment and response to the final office action  
5 dated 11/07/2008. Claims 106 to 124 are pending in this application. In a final office action dated 11/7/2008, examiner had rejected claims 106-108 as being obvious over Rose et al in view of Campisano and further in view of Duyck.

Further examiner has objected to claims 109 to 124 as having requiring an  
10 algorithm encoded on the substrate which is different from previously presented encryption/decryption algorithm. Hence for that reason they are directed to an invention than originally claimed, requiring the examiner to have election/restriction requirements for these claims 109-124.

15        Applicant appreciates the examiner's efforts in helping the applicant properly claim the invention. It is not the intention of the applicant to claim as the claims appear having perhaps used confusing language. Applicant amends these claims 109 to 124, and specifically independent claims 109, 114 and 123 and others where applicable to clarify the scope of the invention. No new matter is believed added. Hence the  
20 election/restriction requirement is considered moot.

Examiner has rejected claims 106-107 under 35 USC 112, first paragraph for having used the term "merchant gateway", the specification not having antecedent basis for this recitation. The applicant has amended "merchant gateway" with "adapted prior  
25 art merchant gateway" which finds support in the specification as follows: Specifically, "adapted prior art merchant gateway" as used in the claims is described in the specification on page 6, lines 1-4 and page 8, lines 3 to 13.

Examiner had rejected claims 106-108 as being obvious over Rose et al in view  
30 of Campisano and further in view of Duyck, where Duyck is cited in the 11/7/2208 office

action. Applicant has amended claims 106-108 to better define the scope of the invention.

What Duyck teaches is an adaptation of a prior art merchant terminal for processing a credit card transaction that has been adapted in Duyck invention to be able to enter a merchant id in the merchant terminal allowing a single merchant terminal to be shared by more than one merchant such as a office shared by professional such as doctors and lawyers. Hence Duyck does not teach any element of claims 106-108 and also any element of claims 109-124.

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Rose teaches different embodiments of the Rose payment card, as illustrated in Rose Figures 2 to 3A-E. These Rose embodiments cover from a blank card to a decorative card, to a card with or without a bank name, and a card where the customer can etch or write his name initials. These different embodiments do not display the 15 customer name and or bankcard number.

Rose et al further teaches a payment card, which has a code on the card, the code is associated with multiple bank accounts in a database at a remote location. When the Rose card is used at an ATM/POS, the code from the card is read and routed 20 to the database at the remote location. The database matches the code, and the database returns the identity of each account to the ATM/POS to be displayed on the screen, along with the PIN of each account. The user is asked to select from this list of accounts, a specific account to be used for this transaction and then asked to enter the corresponding PIN for that account in the ATM/POS. The ATM/matches the PIN and 25 then forwards the specific account data for normal transaction processing.

Campisano art is on a cardless payment system for credit card transactions. To be able to provide a cardless payment system that does not use a credit card, Campisano teaches a cardless payment system that uses a entry of the user's 30 telephone number combined with a PIN, in lieu of his/her physical bankcard at a point of sale terminal. The telephone number and the PIN are linked to the card number in a

card database that may be maintained by the card-issuing bank or the telephone company, as they have the ability to verify the telephone number.

In Campisano, the telephone number and a PIN are used to identify a specific card in the database and not to authorize a transaction. Campisano, from col. 2, lines 33 to line 39, “The card member must then sign some sort of receipt or authorization slip and the transaction is complete, step 20.”

Further, in Campisano’s cardless payment system, the telephone number is a unique number that is easily traceable and associated with the owner and is thus not a customer identifier without customer identity data as in claim 106. In contrast, Campisano does not teach at least element (a), (c), and (d) of claim 106.

Since Campisano does not teach authorization via a CPIN and does not teach customer identifier without customer identity data, the amended claim 106-108 could not be obvious over Rose in view of Campisano and in view of Duyck.

Examiner cites KSR v. Teleflex, and its seven rationales to support 103 (a) rejections, under an obviousness enquiry. Applicant submits that KSR did not change Graham v. Deere, the applicable law of obviousness, but clarified the application of Graham V. Deere test of obviousness, in those obviousness enquiry cases that combine known elements according to known methods that yield predictable results that are in the purview of those with ordinary skill in the art.

The claims of the current invention do not provide known elements according to known methods as the scope of claims and the prior art cited by the examiner make it clear that those with ordinary skill in the art at that time were focused on providing convenience in use of bankcards and prevent theft of bankcards from the customer’s possession. The prior art of record shows that those with the ordinary skill in the art at that time were not trying to provide security by protecting the bankcard identity data from the merchants and merchant sale systems themselves. Security of bankcard data

from the merchants themselves due to theft and compromise from their systems was not an issue to be solved in year 2001 in the purview of those with ordinary skill in the art at that time.

5       Therefore, Applicant submits that the claims 106 to 108 and 109 to 124 are not obvious over these prior arts, where Rose and Campisano and Duyck individually or in combination do not teach or suggest the invention in these claims and would not be obvious to those of ordinary skill at that time.

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### CONCLUSION

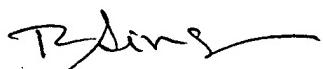
In conclusion, Applicant respectfully asserts that claims 106 to 124 are patentable for the reasons set forth above, and that the application is now in a condition for allowance. Accordingly, an early notice of allowance is respectfully requested. The

15     Examiner is requested to call the undersigned at 310-540-4095 for any reason that would advance the instant application to issue.

Dated this the 20<sup>t</sup>h day of January, 2009

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Respectfully submitted,



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